

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CHRISTOPHER L. TINDALL,

Case No. 3:19-cv-00189-MMD-WGC

Plaintiff

ORDER

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DARIN BALAAM, *et al.*,

Defendants

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a former inmate. On March 27, 2020, the Court issued an order dismissing the Complaint with leave to amend and directed Plaintiff to file an amended complaint within 30 days. (ECF No. 4 at 8.) The 30-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court’s order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure

1 to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
 2 (affirming dismissal for lack of prosecution and failure to comply with local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
 4 a court order, or failure to comply with local rules, the court must consider several factors:
 5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
 6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
 7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
 8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
 9 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously
 11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
 12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
 13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
 14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
 15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
 16 disposition of cases on their merits—is greatly outweighed by the factors in favor of
 17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
 18 the court's order will result in dismissal satisfies the “consideration of alternatives”
 19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
 20 at 1424. The Court's order requiring Plaintiff to file an amended complaint within 30 days
 21 expressly stated: “It is further ordered that, if Plaintiff chooses not to file an amended
 22 complaint curing the stated deficiencies of the Complaint, Plaintiff's Complaint will be
 23 dismissed with prejudice for failure to state a claim.” (ECF No. 4 at 8). Thus, Plaintiff had
 24 adequate warning that dismissal would result from his noncompliance with the Court's
 25 order to file an amended complaint within 30 days.

26 It is therefore ordered that this action is dismissed with prejudice based on
 27 Plaintiff's failure to file an amended complaint in compliance with this Court's March 27,
 28 2020, order.

1 It is further ordered that the Clerk of Court enter judgment accordingly.
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3 DATED THIS 11th day of May 2020.

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6 MIRANDA M. DU
7 CHIEF UNITED STATES DISTRICT JUDGE
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